

### **REMARKS**

This Amendment is in response to the Office Action of December 22, 2009. In the Office Action, claims 1-4, 7-11, 13, 16-19 and 23-25 were rejected and claims 12 and 20 were objected to. With this Amendment, claims 10-12 have been amended and the remaining claims are unchanged in the application. Claims 5, 6, 14, 15, 21 and 22 were previously cancelled. No new matter has been introduced as a result of the claim amendments. Applicants thank the Examiner for the indication of allowable subject matter in claims 12 and 20. Claims 1-4, 7-13, 16-20 and 23-26 are presented for reconsideration and allowance.

In section 4 of the Office Action, claims 1-4, 7-11, 13 and 16-18 were rejected under 35 U.S.C. 103(a) as being unpatentable over Ghaffari et al., U.S. Patent No. 6,829,663 in view of Lo et al., U.S. Publication No. 2004/0010625.

Although claims 1 and 10 are concerned with physical layer quality data, the rejection of claims 1 and 10 on pages 3 and 4 of the Office Action, based on certain sections Ghaffari, does not address physical layer quality. In fact, the entire Ghaffari reference includes nothing about physical layer quality as featured in claims 1 and 10. Ghaffari discloses primitives and primitive encoder 216 and primitive decoder 212 in a link layer in FIG. 2 and at column 6, lines 10-14. Primitives in Ghaffari are simply commands or indications of events. These primitives in Ghaffari are transmitted over a communication channel independently of the quality of the communication channel. Ghaffari appears to assume a certain quality level of the communication channel when the primitives are transmitted. Ghaffari does not teach or expressly or impliedly suggest the all the elements of claims 1 and 10. Lo does not make up for the deficiencies of Ghaffari. Thus, claim 1 is allowable over the cited art.

In section 5 of the Office Action, claims 19 and 23-26 were rejected under 35 U.S.C. 103(a) as being unpatentable over Ghaffari et al., U.S. Patent No. 6,829,663 in view of Lo et al., U.S. Publication No. 2004/0010625.

Independent claim 19 includes elements similar to those of claims 1 and 10 and is thus non-obvious and patentable. Withdrawal of the rejection of claim 19, and reconsideration and

allowance of claims 10 and 19 are therefore requested. Dependent claims 2-4, 7-9, 11-13, 16-18, 20 and 23-26 include additional limitations that, when taken in combination with their respective base independent claims 1, 10 or 19, are also non-obvious and patentable. Withdrawal of the rejections of dependent claims 2- 4, 7-9, 11-13, 16-18, 20 and 23-26, and reconsideration and allowance of claims 2-4, 7-9, 11-13, 16-18, 20 and 23-25 are therefore requested.

The Director is authorized to charge any fee deficiency required by this paper or credit any overpayment to Deposit Account No. 23-1123.

Respectfully submitted,

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